

OCA FILE *Leg-DR*

OCA 87-4001
17 September 1987

MEMORANDUM FOR: Acting Director of Central Intelligence

VIA: Executive Director

FROM: *Dave Griggs* D. Griggs

SUBJECT: Intelligence Community Legislative Proposals for
Second Session of the 100th Congress

Attached for your review and approval is a compilation of legislative initiatives proposed by the Agency and the Intelligence Community for the Second Session of the 100th Congress.

As you know, this is an annual exercise in which we signal to the Administration what legislative items will be of interest to us in the 100th Congress. All components in the Agency as well as the Intelligence Community have been solicited for input, and a number have submitted proposals. The inclusion of an item in the program does not irrevocably commit us to seek legislation on the item. Furthermore, we can subsequently push for other proposals that may not be currently included in the program. The vehicles we will use to seek legislation of interest will be either the Fiscal Year Intelligence Authorization Bill or free-standing legislation.

The program contains several new Agency initiatives. Of particular interest are items, some potentially controversial, proposed by the Office of Personnel that would begin to implement some of the recommendations contained in the draft proposal on New Pay, Personnel Management and Compensation System. These items include proposals to waive certain civilian personnel ceilings, allow Senior Intelligence Service (SIS) employees to convert leave to cash, and to increase average pay for retirement purposes by including bonuses awarded in the calculation base. Other proposals by the Office of Personnel not directly part of the new personnel system (some of which will also be controversial), include exempting the Agency from the Federal Employees Health Program, enhanced disability benefits, exempting the Agency from certain Immigration and Naturalization Services (INS) record keeping requirements, and enhanced benefits for former spouses. The Office of Security has also proposed an initiative that would allow Agency access to employee credit union records for security purposes; this was expanded to the Community at the request of several agencies.

While many of these proposals will be difficult (if not impossible) to enact, I recommend that you approve the Legislative Program as drafted. We can later weed out those proposals that do not appear to have much chance of succeeding or have weak justifications when we are drafting the authorization bill.

Dave Gries

Attachment
as stated

Distribution:

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OCA/LEG/ (17 September 1987)

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CENTRAL INTELLIGENCE AGENCY
AND
INTELLIGENCE COMMUNITY
PROPOSED LEGISLATIVE PROGRAM
FOR THE
SECOND SESSION OF THE 100th CONGRESS

LEGISLATIVE PROPOSALS

100/2 - 1:

Fiscal Year 1989 Intelligence
Authorization Act

The Director of Central Intelligence will submit to the Office of Management and Budget for clearance a proposed Fiscal Year 1989 Intelligence Authorization Act for transmittal to the Congress.

100/2 - 2:

Protection of Intelligence Information

The Director of Central Intelligence may propose legislation to provide criminal penalties for the unauthorized disclosure of classified information by Federal employees, or others having authorized access to classified information. The DCI may support this proposal as contained in other legislation.

100/2 - 3:

Department of Defense Proprieties

At the request of the Department of Defense, the Director of Central Intelligence will include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation which would grant the Department of Defense authority to establish and operate corporations or other business entities in support of authorized and appropriately coordinated intelligence activities and may support this proposal as contained in other legislation.

100/2 - 4:

Clarification of Security Authorities

In order to ensure the integrity of security investigations and determinations, the Director of Central Intelligence may include in the Fiscal Year 1989 Intelligence Authorization Act legislation to clearly establish that the authority of Executive Branch officials to make security clearance and access determinations is committed to the discretion of Executive Branch officials by law and not subject to administrative or judicial review under the provisions of any statute.

100/2 - 5:

Clarification of CIA/NSA/DIA Drug and Alcohol Abuse Authorities

In light of the uncertainty created by recent case law concerning alcohol and drug abuse, the Director of Central Intelligence may include in the Fiscal Year 1989 Intelligence Authorization Act legislation to ensure that the Central Intelligence Agency, the National Security Agency and the Defense Intelligence Agency are able to continue to deal with security problems in the area of alcohol and drug abuse without regard to the provisions of any other law, rule, or regulation.

100/2 - 6:

Death-in-Service Benefits

If it does not become law as part of the Fiscal Year 1988 Authorization Act, the Director of Central Intelligence may propose legislation to amend the law governing the Central Intelligence Agency Retirement and Disability System (CIARDS) so as to provide death-in-service benefits to qualifying former spouses retroactive to November 15, 1982. The Director of Central Intelligence may also propose legislation that would provide death-in-service benefits to pre-1982 qualified former spouses.

100/2 - 7:

Access to Credit Union Records

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would allow the Central Intelligence Agency (CIA) access to credit union records of CIA employees when evidence of employee financial difficulties or irregularities exist. The Director may support extension of this authority to other agencies within the Intelligence Community as appropriate.

100/2 - 8:

INS Record-Keeping Exemption

The Director of Central Intelligence may propose or support legislation that would exempt intelligence agencies from the record-keeping requirements associated with the preparation and retention of Immigration and Naturalization Service (INS) Form I-9.

100/2 - 9:

Civilian Personnel Ceilings

The Director of Central Intelligence may propose legislation to waive certain civilian personnel end strength levels applicable to the Central Intelligence Agency. This legislation would be similar to that contained in the Department of Defense appropriations legislation for Fiscal Year 1987.

100/2 - 10:

Exemption From Federal Employees Health Program

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would authorize the Central Intelligence Agency to withdraw from the Federal Employees Health Benefit Program and to administer a separate insurance program tailored to its employees and retirees.

100/2 - 11:

SIS Leave Conversion

The Director of Central Intelligence may propose or support legislation that would allow Senior Intelligence Service employees to convert to cash any annual leave balances in excess of a set amount each year and may support extension of this to members of the Senior Cryptological Service as appropriate.

100/2 - 12:

Recalculation of Average Pay for Retirement Purposes

The Director of Central Intelligence may propose or support legislation to include bonuses in the definition of basic pay used in the computation of the "high-three" average pay for Central Intelligence Agency employee retirement purposes. Appropriate safeguards to prevent abuse would be included and the Director may support the extension of this to the National Security Agency as appropriate.

100/2 - 13:

Enhanced Disability Annuitant Benefits

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation which would authorize a Central Intelligence Agency Retirement and Disability System (CIARDS) disability annuitant, whose annuity was terminated and later restored, to elect life and health insurance coverage subsequent to the restoration of the disability annuity. This proposal would bring CIARDS into conformity with rules governing Civil Service Retirement System disability annuitants.

100/2 -14:

New Category of Former Spouses Entitled to Survivor Benefits

In order to bring the Central Intelligence Agency Retirement and Disability System (CIARDS) into conformity with Civil Service Retirement System provisions, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would allow a former spouse who is not a qualified former spouses (as defined under CIARDS law) to be eligible for survivor benefits. This legislation would authorize a new category of former spouses (referred to as "previous spouses"), which would be defined as a divorced spouse who had been married for at least nine months to a CIARDS participant. A previous spouse would have no automatic entitlement to survivor benefits, but court orders and/or elections granting survivor benefits could be honored under CIARDS.

100/2 - 15:

Access by FBI to Tax Records for Counter-intelligence Purposes

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act, at the request of the Federal Bureau of Investigation (FBI) and with the concurrence of the IRS, legislation that would authorize the FBI, upon approval by the Attorney General or his designee, to receive tax return and taxpayer information regarding individuals that are the subject of a counterintelligence investigation.

100/2 - 16:

Equalization of Uniform Allowance for
Certain Foreign National Employees
Employed by the Defense Intelligence
Agency in Embassies Abroad

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation to provide the Director, DIA, the authority to pay certain foreign national employees employed by DIA in embassies abroad an annual uniform allowance equivalent to that paid by the Department of State to foreign national employees in similar positions.

100/2 - 17:

Exemption for the Defense Intelligence
Agency (DIA) from Certain Federal
Personnel Data Reporting Requirements

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence at the request of the Defense Intelligence Agency (DIA), may include in the proposed Fiscal Year 1989 Intelligence Authorization Act a statutory exemption for DIA from certain routine, unclassified federal personnel data reporting requirements.

100/2 - 18:

Eligibility of Defense Intelligence
Agency Military Attaches and Civilian
Personnel Assigned to Defense Attache
Offices for Department of Defense Death
Gratuity for Members and Employees
Assigned to Intelligence Duties Abroad

The Director of Central Intelligence may propose, at the request of the Defense Intelligence Agency, an amendment to Chapter 75 of Title 10, United States Code, to allow surviving dependents of military attaches and civilian personnel

supporting such attaches killed while serving in embassies abroad to be eligible for the current Department of Defense death gratuity available to surviving dependents of members of the Armed Forces and Department of Defense employees killed while assigned to intelligence duties abroad.

100/2 - 19:

Tax Exemption for Allowances Paid to Certain NSA and DIA Employees

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director will include in the proposed Fiscal Year 1989 Intelligence Authorization Act an amendment to the Internal Revenue Code to exempt from taxation allowances paid to certain NSDA and DIA employees. Currently, these same allowances as paid to employees of the Foreign Service and the Central Intelligence Agency are tax exempt.

100/2 - 20:

Retroactive Pay for Certain NSA Employees

At the request of the National Security Agency (NSA), the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act an amendment to the NSA Act of 1959 to allow the Director, NSA, to pay certain senior NSA employees additional pay to which they would have been entitled during Fiscal Years 1980 and 1981 under a 1984 Seventh Circuit decision (Squillacote v. United States, 739 F.2d 1208 (7th Cir. 1984), cert. denied, 105 S.C. 2021 (1985)) if NSA's Senior Cryptologic Executive Service had been established at the same time as the Senior Executive Service.

100/2 - 21:

NSA Graduate Studies Program

If it does not become law as part of the Fiscal Year 1988 Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Authorization Act an amendment to the NSA Act of 1959 to provide statutory authority for the establishment by the Director, NSA, of a graduate training program for critical skills.

100/2 - 22:

Transportation of Remains - NSA

The Director of Central Intelligence may propose or support legislation to authorize the payment of expenses for transportation of remains, dependents, and effects of a National Security Agency employee who dies while on a rotational tour of duty within the United States at a place away from his or her permanent home.

100/2 - 23:

Pay Advance - NSA

The Director of Central Intelligence may propose or support legislation to authorize advances of up to three months pay to National Security Agency employees reassigned for permanent duty to a new location within the United States in like manner as is authorized in cases of transfers overseas.

100/2 -24:

NSA Guard Force

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation to authorize NSA personnel to assume, with respect to certain NSA facilities, the protective functions currently performed pursuant to delegation by the General Services Administration.

100/2 - 25:

Impact of Export Control Regulations on
the Intelligence Community

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would require the Director of Central Intelligence to report annually to the Intelligence Committees on the impact of changes in the Export Administration Act on the functions of the Intelligence Community agencies.

110/2 - 26:

Permanent Termination Authority - DIA
Civilian Employees

The Director of Central Intelligence may propose as part of the Fiscal Year 1989 Intelligence Authorization Act legislation making permanent the authority to terminate DIA civilian employees.

100/2 - 27:

Permanent Personnel Management Authority
DoD Military Intelligence Personnel

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation making permanent personnel management authority for DoD military intelligence personnel.

100/2 - 28:

FBI New York Field Division Compensation

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation authorizing the Director of the FBI to pay additional compensation to the New York Field Division of the FBI to the extent appropriate to defray unusual living expenses associated with such employment.

100/2 - 29:

Secure Promotions for Certain Military Intelligence Officers

The Director of Central Intelligence, at the request of the Department of the Army, may propose or support legislation to establish a method of securely promoting certain U.S. Army military intelligence officers. Currently, these officers are promoted in accordance with an unwritten agreement between the Congress and the Executive Branch. The legislative proposal would establish a viable permanent method for their secure promotion.

100/2 - 30:

Department of Defense Authority to Accept and Transfer Foreign Material

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Secretary of Defense to accept, transfer and exchange foreign material on a non-reimbursable basis and to transfer funds between appropriations when necessary for the expedited acquisition of foreign materiel.

100/2 - 31:

Department of Defense Authority to Provide Intelligence Training

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Secretary of Defense to provide intelligence training to personnel from the foreign military establishment.

100/2 - 32:

Foreign Language Proficiency Incentive Pay

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Defense Intelligence Agency to provide incentive pay to civilian employees for foreign language proficiency.

100/2 - 33:

DIA Overseas Benefit Comparability Package

At the request of the Defense Intelligence Agency (DIA), the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation to authorize the Director, DIA, to provide to DIA personnel serving overseas benefits comparable to those available to similarly-situated personnel of the Department of State.

100/2 - 34:

CIARDS Post-Election Option Into FERS "Special Category" Status

The Director of Central Intelligence may propose legislation to provide those Central Intelligence Agency employees who elected initially to remain in the Civil Service Retirement and Disability System during the initial open season but who are subsequently designated as participants in the Central Intelligence Agency Retirement and Disability System the option to elect to transfer into the Federal Employees Retirement System "Special Category" status.

TO : D/OCA		CONTROL # OCA 87-4001	DATE OF REQUEST 17 September 87
FROM : <input type="text"/>		SUSPENSE DATE	
SUBJECT : 100th Congress - Second Session Legislative Program			
NOTES <p>Attached is a pink sheet and cover memorandum from you to the Acting Director concerning the 100th Congress, Second Session Legislative Program. It seeks his concurrence in the Program before we send it to the Office of Management and Budget. The Program itself is also attached.</p> <p>We were delayed by several last-minute items submitted by the Office of Personnel and by several Community agencies' desire to be included in those items.</p>			
COORDINATED WITH (list names as well as offices)			
NAME		OFFICE	DATE
NAME		OFFICE	DATE
NAME		OFFICE	DATE
NAME		OFFICE	DATE
ACTION REQUIRED BY D/OCA			
<p>(1) Please initial pink sheet</p> <p>(2) Sign cover memorandum</p>			

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

IC Legislative Proposals for Second Session of the 100th Congress

FROM:

David D. Gries
Director of Congressional Affairs

EXTENSION

NO.

OCA 87-4001

DATE

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Executive Registry

2.

3.

Executive Director

4.

5.

Acting Director of
Central Intelligence

6.

7.

Return to Director of
Congressional Affairs

8.

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12.

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15.

Attached for your review and approval is our legislative program for next year. If you approve we will transmit this to the Office of Management and Budget.